Tribal Land Alienation in Northeast India: Laws and Land Relations

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North Eastern Social Research Centre

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Chapter 1: Introduction

For the last five decades and more, the North Eastern region has witnessed socio-political unrest, insurgency and ethnic clashes. This political unrest combines two distinct conflicts: ethnic clashes among the indigenous groups and political movements against the State. The demands of the militants range from basic socio-economic equality, competition for land, political rights and regional autonomy to outright independence. Thus, the ethnic clashes and political movements go hand in hand making for a complex ethno-political situation. The worst component of the region's ethnic politics is insurgent indulgence.

Present socio-political unrest is also an offshoot of unequal power relations among the ethnic groups. In other words, the social turmoil has more to do with ethnic aspirations and an effort to protect ethnic territories and resources than with political independence. By and large the "mainstream" population considers the Northeast a "land of Conflicts," but very few go beyond them to understand the situations that lead to social and political unrest. Changing land relations are crucial because they affect the cultural system especially community land and individual rights. Thus, the factors leading to ethnic conflicts are numerous but land and control of resources is basic to all of them. Over time land has become central to the conflicts.

Such conflicts are found in most States of the Northeast. For example, during the 1990s, Manipur faced serious social turmoil and political instability that included ethnic clashes between the *Naga-Kuki, Meiteis-Pangal* and *Paite-Kuki*. The first decade of the 21st century saw intense ethnic political tension between the Nagas and the Meiteis with the Meitei community opposing the Naga demand for the political integration of all Naga areas. Integration politics is basically understood as and effort to control land and resources.

In Tripura, land alienation from tribals to non-tribals is a major issue. It is attributed mainly the infiltration of illegal immigrants and to the refugee problem. This chronic problem has turned the indigenous people of the State into a minority. This drastic demographic change was caused by illegal immigrants who have now acquired Indian citizenship, have settled down permanently in Tripura and have become the dominant section of the State's population. Continued refugee influx and illegal migration have led to population explosion and have resulted in land alienation from the tribal to the non-tribal communities.

One can give more examples from other States too. All of them confirm what has been said above, that land as a resource is central to the livelihood of the tribal communities of the Northeast, as such is behind most ethnic conflicts. In this booklet we present the findings of a series of case studies on tribal land alienation in the Northeast. The first study was done by North Eastern Social Research Centre (NESRC). After it researchers did ten case studies in all the States of the Region under the aegis of NESRC and Indigenous Women's Forum of Northeast India. They culminated in a conference on March 9-11, 2006. The studies and the conference were funded by the International Working Group for Indigenous Affairs. The present booklet summarises their findings and discussion in order to put them at the disposal of the tribal communities for their reflection and action.

The Northeast as a Region

Thus, land is central to ethnic conflicts in what is called the North Eastern region. It comprises seven States: Arunachal Pradesh, Assam, Manipur, Mizoram, Meghalaya, Nagaland and Tripura. The region exhibits some unique social, economic and demographic features. Predominant among them is the diversity of the indigenous populations belonging to different ethnic groups. The region is also strategically important because it is surrounded by Bangladesh, Myanmar, China and Bhutan. The frontier with these countries stretching over nearly 1,450 kilometers touches all the North Eastern States.

That there is competition for land is not surprising because the region is endowed with steep forested hill ranges and rugged mountains, numerous narrow strips, deep gorges and narrow river

valleys. Spate and Learmonth (1972) write that the region presents the complexities of the sub-Himalayan ranges, the Indo-Burmese hills of Nagaland, Manipur and Mizoram and the eroded surfaces of the Meghalaya plateau, all encircling the Brahmaputra valley. The hills are sharply marked from the plains, physically as well as culturally, though so linked that to some extent they must be treated together. The Indo-Myanmar (Burma) hills in the east are imposing as a relief feature.

The hills in this region are aligned in intervening parallel valleys. The altitude of Manipur and Naga hills varies between 900 and 2,100 meters. The Mizo hills are of a lower altitude, rarely rising above 900 meters. Parts of Tripura and Imphal valley in Manipur represent areas of low relief. The Assam valley is an alluvial expanse created by the mighty Brahmaputra and its tributaries. In the northern side of the Brahmaputra valley there is a lofty mountain particularly in Arunachal Pradesh but it loses height towards the south and ends in the lowly hills of Mizoram in the extreme south. The notable peaks are *Dapha Bum* (4,579mts.) in Lohit district of Arunachal Pradesh, *Japfu* (3,048mts.) and *Saramati* (3,926mts.) in Nagaland. The Shillong and Karbi plateaux present highly dissected tracts. The prominent feature of the Shillong Plateau is the Garo, Khasi and Jaintia Hills that are 1,200-1,800 metres high.

Like its geographical features, also the population of the region has its specificities. It has a high concentration of tribal populations, most of them Mongoloid. As Ahmad (1983) states, the Indo-Burma hill tribes live in a world of their own. Having lived in the marshland between India and China and in the triangle where the Indian and Chinese worlds meet, they are made to believe that they belong to none. The boundaries of the British Empire as defined in the Northeast, left the tribal question aside as an irrelevant adjunct of the territorial issue.

The Northeast has an aggregate of 2,55,037 sq. km accounting for nearly 9 per cent of India's total geographical area. The region accounts for 7 per cent of India's dense forest cover and is rich in bio-diversity. It contains more than a third of the country's biodiversity (FSI 1995) which rests on unique climatic and topographic conditions of the region. It ranges from the tropical forest ecosystem in the flood plains to sub-tropical, temperate and alpine forest ecosystem in the high mountains. Nearly 54 per cent of the region's geographical area is recorded as forests (FSI 1999).

In the region, traditional economic activities like shifting agriculture agro-ecosystem, wet rice sedentary terraced cultivation agro-ecosystem and alder tree-based agro-ecosystem contribute to its rich ecosystem diversity. These ecosystems are home to a large variety of indigenous wild as well as cultivated crops, plants and animals. "Traditional upland societies in the Asian tropics are closely linked with a variety of natural forested ecosystem types, ranging from dry deciduous to humid rainforest systems. They live in harmony with their natural environment obtaining a variety of resources that may provide cash income. They are also involved with a wide range of land-use activities, chiefly for food production, from the shifting agriculture on the one extreme to a variety of sedentary agro-ecosystem types of the other. All these agro-ecosystem types have close interconnection both with natural forest and with complex village ecosystem. The various land-use types arising out of the livelihood activities of these traditional societies are integral components of a landscape mosaic" (Ramakrishnan 1999: 176).

The Population of the Region

According to the 2001 census, India has a population is 1,028,737,436 persons. Despite hitting the 1 billion mark, the decadal growth rate has declined slightly from 23.8 per cent in 1981-1991 to 21.3 per cent in 1991-2001. Together with the slightly declining population growth is its higher rate of literacy and sex ratio. During the last five decades, many North Eastern States have experienced high population growth (Table 1.1). The 2001 census shows a population of 38,444,026 in the region constituting only 3.6 per cent of India's total. Its decadal growth rate declined drastically from 27.4 per cent in 1981-91 to 22 per cent in 1991-2001. However, it remains higher than the national average of 21.3 per cent.

Among the seven States the decadal growth in the decade 1991-2001 varied from a low 16.03 per cent in Tripura to a high of 64.52 per cent in Nagaland. The growth rate has declined in Mizoram,

Meghalaya, Assam and Tripura while it has increased marginally in Nagaland and Manipur by 8.3 and 0.7 points respectively. Possible reasons of the high growth rate are large families and influx of immigrants from outside the region.

Tribals are the dominant ethnic group in the hill States of Mizoram, Nagaland, Meghalaya, Arunachal Pradesh and the hill districts of Manipur, Assam and Tripura. The total tribal population of the region was 10,354,493 and constituted 27.68 per cent of the population of the region. In 1991 its tribal population excluding Assam was 53,68,187. In 1990 the tribal population showed an increase in all the States except Arunachal Pradesh. In 1991 were 94.7 per cent in Mizoram, 87.7 per cent in Nagaland, 85.5 per cent in Meghalaya, 34.4 per cent in Manipur and 30.4 per cent in Tripura. In Arunachal Pradesh, their percentage declined from 69.8 per cent in 1981 to 63.6 per cent in 1991. The 2001 census shows that the tribal population of Arunachal Pradesh is 64.2 percent but their proportion remains the same in Mizoram, Nagaland and Meghalaya.

Table 1.1: Total Population and Decadal Growth in the North Eastern Region

	Total Population		*% decadal growth*	*Tribal Population*	*Tribal % to Total Population*
Region/States	*1991*	*2001*	*1991-2001*	*2001*	*2001*
India	**846387888**	**1028737436***	**21.54**	**84,326,240**	**8.20**
Arunachal Pradesh	864558	10,97,968	26.21	705158	**64.22**
Assam	22414322	266,55,528	18.92	3308570	**12.41**
Manipur	1837149	22,93,896*	24.86	741141**	**32.31**
Meghalaya	1774774	23,18,822	30.65	1992862	**85.94**
Mizoram	689756	8,88,573	28.82	839310	**94.46**
Nagaland	1209546	19,90,036	64.52	1774026	**89.15**
Tripura	2757205	31,99,203	16.03	993426	31.05
North East Region	**30,682,752**	**38,444,026**	**25.29**	**10,354,493**	**26.93**

* Including the estimated figure of **Mao-Maram, Paomata** and **Purul** sub-divisions of Senapati district.

Excluding the population of **Mao Maram, Paomata & **Purul** Sub-divisions of Senapati district.

Source: (a) Office of the Registrar General and Census Commissioner. 1991 & 2001. *India, Series 1, Final Population Totals*. New Delhi: Office of the Registrar General and Census Commissioner.

(b) Office of the Registrar General and Census Commissioner. 1991 & 2001. *Series 1-India, Part II-B (ii), Primary Census Abstract, Scheduled Tribes*. New Delhi: Office of the Registrar General and Census Commissioner.

The Ethnic Groups of the Northeast

12.28 per cent or 10,354,493 of India's Scheduled Tribe population of 84,326,240 live in the Northeast but its ethnic groups are not homogeneous. Some like the *Bodo* and *Dimasa* live in the plains but most indigenous communities inhabit the hills. Some tribes are small and others are large (see Table 1.2). The *Adi* are 26.9 percent and the Nishi 21.7 per cent but the *Aka* only 0.6 percent of the Arunachal population. The *Garo* and *Khasi* together are 90 per cent of the Meghalaya population and the *Mizo* 87.3 percent in Mizoram. Tribals are more than 80 per cent of the population in Nagaland, Meghalaya and Mizoram and two thirds in Arunachal Pradesh (see Box 1).

But non-tribals dominate the populous States of Assam, Manipur and Tripura. In Assam, the North Cachar Hills and Karbi Anglong are the only tribal majority districts. The tribal population is very high in the five hill districts of Manipur i.e. Senapati, Ukhrul, Tamenglong, Churachandpur and Chandel. Dhalai is the only tribal majority district in Tripura with 54 per cent. However, there has been a drastic change in Tripura during the last five decade. Its tribal proportion that was over 58 per cent in 1951 has declined to 31 percent in 2001. In Arunachal Pradesh too, the tribal proportion has declined from around 90 per cent to 64.22 per cent in the same period (For district-wise tribal population see Table 1.2)

Table 1.2: District-wise Tribal Proportion in the Northeast in 2001

Sl. No.	*State & Districts*	*Tribals as % of Total Population*	*Sl. No.*	*State & Districts*	*Tribals as % of Total Population*	*Sl. No.*	*State & Districts*	*Tribals as % of Total Population*
	Arunachal	***64.22***		***Assam***	***12.41***		***Assam Continued***	
1	Tawang	**74.99**	1	Kokrajhar	33.67	14	Tinsukia	5.84
2	West Kameng	49.53	2	Dhubri	1.98	15	Dibrugrarh	7.45
3	East Kameng	**86.71**	3	Goalpara	16.03	16	Sibsagar	3.94
4	Papum Pare*	**56.56**	4	Bongaigaon	12.23	17	Jorhat	12.32
5	Lower Subansiri	**90.09**	5	Barpeta	7.48	18	Golaghat	9.92
6	Upper Subansiri	**89.53**	6	Kamrup	9.92	19	KarbiAnglong	**55.69**
7	West Siang	**81.72**	7	Nalbari	17.63	20	NC Hills	**68.28**
8	East Siang	**69.13**	8	Darrang	16.60	21	Cachar	1.28
9	Upper Siang*	**78.21**	9	Marigaon	15.55	22	Karimganj	00
10	Dibang Valley	46.48	10	Nagaon	3.86	23	Hailakandi	00
11	Lohit	38.18	11	Sonitpur	11.60			
12	Changlang	36.15	12	Lakhimpur	23.49			
13	Tirap	**83.66**	13	Dhemaji	47.29		***Manipur***	***34.2***
	Meghalaya	***85.94***		***Mizoram***	***94.45***	1	Senapati	**78.45**
1	West Garo Hills	**76.61**	1	Mamit*	**93.41**	2	Tamenglong	**95.38**
2	East Garo Hills	**96.54**	2	Kolasib*	**89.78**	3	Churachandpur	**93.23**
3	South Garo Hills*	**95.67**	3	Aizawl	**93.23**	4	Ukhrul	**95.53**
4	West Khasi Hills	**98.01**	4	Champal*	**96.8**	5	Chandel	**91.93**
5	Ri Bhoi*	**87.02**	5	Serchhip*	**98.08**	6	Bishnupur	2.94
6	East Khasi Hills	**77.49**	6	Lunglei	**95.29**	7	Thoubal	1.17
7	Jaintia Hills	**95.96**	7	Lawngtlai	**95.4**	8	Imphal West	4.75
			8	Saiha*	**96.21**	9	Imphal East*	6.25
	Nagaland	***89.14***		***Nagaland Continued***			***Tripura***	***31.05***
1	Mon	**93.92**	5	Wokha	**95.50**	1	West Tripura	25.25
2	Tuensang	**96.03**	6	Dimapur*	**60.69**	2	South Tripura	37.72
3	Mokochung	**93.78**	7	Kohima	**90.54**	3	Dhalai*	**54.02**
4	Zunheboto	**96.07**	8	Phek	**96.47**	4	North Tripura	25.46

* District created in 2001.

Source: Registrar General and Census Commissioner. 2001.

According to the 1991 census, 83.3 per cent of the tribal workforce in the region was engaged in the primary sector while their proportion in the secondary and tertiary sectors was only 2.3 and 14.4 percent respectively. Such high dependence on land and forests is mainly because of the neglect of the secondary sector. Changing land relations and its alienation in the Northeast have to be situated within this context of high dependence on the primary sector that increases pressure on land. Moreover, development projects, especially major dams being planned in the region are expected to deprive many more families of their land.

The indigenous people of the region are of the *Mongoloid* stock speaking *Sino-Tibetan* languages. Its main tribal groups are *the Nagas, Mizos, Lushais, Hmars Kukis, Chins, Zomis, Hmar, Bodos, Dimasa, Karbi, Kachari, Borok, Tripuri, Reang, Jamatia, Garo, Jaintia, Adi, Aka, Apatani, Nissi, Monpa, Paites, Zos…etc.* Many indigenous groups are recognised as 'Scheduled Tribes" by the Government of India (Box 1). These communities lived in their respective territory in a self-sufficient village system. The village is a well-defined unit having its own territory, land and forest. Its basic unit consists of households and people of different clans. The villages are a complementary component and interdependence social, economic and cultural relationship. A majority of the population lives on subsistence agriculture and their main economic activity is shifting cultivation (also known as

Jhumming) or sedentary terraced cultivation. Hunting, fishing, pottery, basketry, blacksmith and forestry supplement their economy. "The forest, rangelands, and farming system were managed by the tribal societies as multiple systems. They met their needs through a long tradition of carefully maintaining forest resources. The culturally beliefs of the tribes in this region have in fact contributes a lot to biological diversity and environmental protection, along with materials such as food, shelter, medicine, plants and many social customs and religious rituals. The principle of co-existence between the natural environment and human beings is thus developed and presented as a distinctive physical phenomenon in this mountain region." (Aier and Changkija 2003: 334).

Box 1: Ethnic Groups Recognised as Scheduled Tribes

Arunachal Pradesh

Arunachal Pradesh has more than 80 (eighty) ethnic groups but only 12 (twelve) of them are recognised as Scheduled Tribes. *1. Abor, 2. Aka, 3. Apatani, 4. Dajla, 5. Galong, 6. Khampti, 7. Khowa, 8. Mishmi, 9. Mongba, 10. Any Naga Tribe (Wancho, Tangsa, and Nocte), 11. Sherdukpen, 12. Singpho.*

Nagaland

Five groups are listed as Scheduled Tribes in Nagaland; *1. Garo, 2. Kachari, 3. Kuki, 4. Mikir, 5. Nagas.*

Manipur

The tribes in Manipur can be broadly categorised as *Naga* groups, *Kuki-Chin-Zomi* and others. 29 (Twenty nine) of them are recognised as Scheduled Tribes. ***A. Nagas:*** *1. Anal, 2. Angami, 3. Chiru, 4. Chothe, 5. Kabui, 6. Kacha Naga, 7. Koireng, 8. Lamkang, 9. Mao, 10. Maram, 11. Maring, 12. Monsang, 13. Moyong, 14. Sema,* and *15. Tangkhul.* **B. Kuki-Chin-Zomi**: *16 Aimol, 17 Gangte, 18 Hmar, 19 Vaiphei, 20 Koirao, 21 Kom, 22 Any Mizo (Lushai), 23 Paite, 24 Purum, 25 Ralte, 26 Suhte, 27 Simte, 28 Suhte and 29 Thadou (Kuki).*

Meghalaya

In Meghalaya 17 (Seventeen) ethnic groups are recognised as Scheduled Tribes.*1. Boro, 2. Kachari, 3. Chakma, 4. Dimasa, 5. Garo, 6. Hajong, 7. Hmar, 8. Khasi, 9. Jaintia, 10. Koch, 11. Any Kuki Tribe, 12. Lakher, 13. Man (Tai speaking), 14. Any Mizo, 15. Mikir, 16. Any Nagas, 17. Pawi, Rabha, and Synteng.*

Mizoram

The word "*Mizo*" refers to the people, and "*Ram*", the land. The State has 14 (Fourteen) ethnic groups listed as Scheduled Tribes: 1.*Chakma, 2.Dimasa, 3.Garo, 4.Hajong, 5.Hmar, 6.Khasi, 7.Jaintai, 8.Any Kukis, 9.Lakher, 10.Man (Tai speaking), 11.Any Mizo, 12.Mikir, 13.Any Nagas,14. Pawi, and Synteng.*

Tripura

19 (nineteen) groups are recognised as Scheduled Tribes in Tripura: *1. Bhil, 2. Bhutia, 3. Chaimal, 4. Chakma, 5. Garo, 6. Halam, 7. Jamatia, 8. Khasi, 9. Any Kuki, 10. Lepcha, 11. Lushai, 12. Nag, 13. Munda, 14. Naotia, 15. Orang, 16. Reang, 17. Santhal, 18. Tripuri, Trupiri, Treppera; 19. Uchai.*

Assam

Assam has some 23 Scheduled Tribes: 1. *Chakma, 2. Dimasa, 3. Garo, 4. Hajong, 5. Hmar, 6. Khasi, Jaintia, Synteng, Pnar, Bhoi, 7. Any Kuki tribe, 8. Lakher, 9. Man (Tai speaking), 10. Any Mizo (Lushai), 11. Mikir, 12. Any Naga, 13. Pawi, 14. Sytheng, 15. Barmans, 16. Boro, 17. Deori, 18. Hojai, 19. Kachari, 20. Lalung, 21. Mech, 22. Miri, 23. Rabha.*

Table 1.3 shows the population of major indigenous groups. The Nagas are the most numerous. In 1991 they totalled 14,58,097. Their biggest number is recorded in Nagaland, Manipur and Arunachal Pradesh. The second largest group is the *Boro* of Assam with a population of 12,67,015 persons. Among the remaining ethnic groups, the *Khasi* and *Jaintia* are 8,82,301, the *Garo* 5,76,446, the *Mizo* 5,17,334, *Tripuri* 4,61,531, *Mikir* 2,93,789, *Kachari* 2,10,430, *Kuki* 2,05,736 and *Chakma* 1,55,200. The *Kukis* are scattered in most States (Table 1.3).

Table 1.3: Ethnic population in the North Eastern Region, 1991

States	***Major Ethnic Groups***										
	Nagas	*Kukis*	*Mizo*	*Garo*	*Khasi Jaintia*	*Kachari*	*Tripuri/Treppera*	*Boro*	*Adi*	*Mikir*	*Chakma*
1. Arunachal	78282*	0	0	0	0	0	0	0	109196	285811	0
2. Assam	15354	21883	1031	17998	11358	198619	0	1267015	0	0	4187
3. Manipur	334085	121994	8240	0	0	0	0	0	0	0	0
4. Meghalaya	715	4054	3007	546734	870165	3436	0	0	0	7275	700
5. Mizoram	74	31077	500146	82	420	131	0	0	0	0	54217
6. Nagaland	1029587	16100	0	2272	0	8244	0	0	0	703	0
7. Tripura	0	10628	4910	9360	358	0	461531	0	0	0	96,096
Total	1458097	205736	517334	576446	882301	210430	461531	1267015	109196	293789	55200

* The Nagas are *Nocte, Wancho,* and *Tangsa*

Source: Registrar General and Census Commissioner. 1991.

The political boundaries of the British Empire and post-colonial re-organisation, as they were defined in the Northeast, left the tribal segment as an irrelevant adjunct of the territorial politics. In the process of colonial expansion and Indian post-independence State these hill communities were brought under different territorial administrations and the concept of State territorial politics was imposed on them. At the same time, many State laws were introduced at different stages to strengthen the administrative system. This "administrative convenience" divided many indigenous groups into different political administrations. For instance, the contiguous Naga Hills and Naga population is segmented into the administrative unit of Nagaland, Manipur, Arunachal Pradesh and Assam.

Conclusion

We have seen in this chapter the background of the Northeast and of its peoples. There is geographical as well as ethnic diversity in the region. That is bound to lead also to a variety of land owning systems and economies. That difference adds to the riches of the region but can also lead to conflicts. In order to better understand these issues in the next chapter we shall study the land owning systems among the tribal communities of the Northeast.

Chapter 2: Land Laws and the Economy of the Northeast

The indigenous economic system revolves round the ecological parameters like land and forest. An intrinsic interrelationship between the ecology and economic systems operates within a given village territory amid a variety of land use systems. We shall try to understand it in this chapter.

The Empirical Concept

Land and forests are the life support system around which the tribal economy and knowledge systems evolved. The knowledge systems were meant to nurture and manage the resource at its most sustainable level without disturbing the ecological balance. They employed technologies that look primitive and simple but are ecologically adaptive because their implements were ecologically feasible. Also the nexus between the natural resources and their livelihood system is based on their values, beliefs, practices and cultural norms. Berry (1976) identifies a variety of sources for the relation among environmental characteristics, management and accumulation of food resources, residential and community settlements, practices and the family structure. He argues that the geographical features and other environmental considerations determine the mode of food production, such as farming, hunting and gathering. In its turn it contributes to difference in their family structures.

Their life was community based and their main sustenance was common property or community land that is today called common property resources (CPRs). Their dependence on the CPRs accentuated in their community life. As Hart (1984: 138) says, to "[T]hose who regard the natural landscape as sacred, the idea of land as private property, as a marketable commodity is inconceivable. Most of the eco-societies believe that 'in the beginning', God gave the 'people', as the tribe are often known to themselves, a territory and its resources from which they were to supply their physical needs." Based on this concept and ecological parameter land and forest may also have "property value," in the form as an individual's landed property that is socially recognised as such within the given territory.

The CPRs and individual land are maintained and controlled by a traditional mechanism of their customary law and management systems. Such control of land and territory is intrinsic to their livelihood. As Soja (1971: 19) says: "[T]erritory is a behavioural phenomenon associated with the organisation of space into spheres of influence or clearly demarcated territories which are made distinctive and considered at least partially exclusive by their occupants or definers." Desmond and Marsh (1988: 27) say "…traditionally human cultures find considerable variation in the extent to which large-scale territories, with distinct boundaries akin to those of national units, are established and the degree to which they are defended. These variations are usually products of identified ecology and economic factors. What is common, however, to all human societies is their need for a sense of 'place'- a feeling of living in an environment which is boundaries and identity."

The indigenous communities have a deep sentimental attachment and socio-cultural orientation towards the land on which they lived. This attachment gives both to an individual and to the community a sense of belonging to a place. It is an important social and cultural phenomenon because it is deeply rooted in their homestead, landed property, relatives, clan and community in general. One of the beautiful manifestations of this attachment is aesthetic-sensibility. Indigenous cultures have numerous aesthetic tastes that they express through their folk songs and dances, beautifully designed hand-woven ethnic attires and wood carvings.

All the indigenous groups in the Northeast are patriarchal. The three tribes of Meghalaya, the *Garo, Khasi* and *Jaintia* are matrilineal but patriarchal. Within the patriarchal system they have an "egalitarian" set up. The woman, though subordinate to the man, had a higher social and economic status in her society than her non-tribal counterparts in theirs. The division of work too, especially in *jhuming* was gender friendly.

The Processes of Land Alienation

That brings us to the basic issue of land ownership and laws. Before the introduction of land related laws by the colonial administration the indigenous people did not have any problem around land. Traditionally they had a three-tier land ownership and control system: 1. Community land, 2. Individual land and 3. Clan land. Every community had well-defined boundaries and traditional administration systems based on the customary law. They had definite rules on who could cultivate what land and in which season. Normally it was controlled by the village council made up of men alone. However, the woman had more control over *jhum* production than her counterparts did in settled agriculture. That gave her a relatively high status without making her equal to men. That situation has changed considerably today with inevitable alterations in land use and relations.

The changes are conditioned both by external forces and internal dynamism. Land has already become a marketable commodity. Its exchange happens both within and outside the community. Internal transfer of land or mortgaging has been resulting in the growth of inequalities in its distribution and control. Such internal disparity is one form of land alienation within the community. Among several causes of land alienation within the community, the most important is the growing indebtedness because of the need for money for medical care and education.

The first external cause of land alienation is higher demand for it for development projects. Alienation processes often come along with the inducement of so-called modernisation, developmental processes and State laws which often favour individualism. The second demand comes from the immigrants who encroach on their land. These issues have become important in the context of the development projects, especially major dams, being planned in the region, most of them on tribal land. A consequence of these processes is shortage of land and ethnic conflicts around it.

The main external reason of induced change depends on the individual-based administrative and legal systems that do not recognise community ownership and tribal customary laws. They make it easy for outsiders to encroach on their land because the State law does not recognise their ownership of these lands. Such State laws, rules and regulations are not socially conducive in the tribal context and were unknown in their tradition. The restrictions imposed on them are also ambiguous and can be exploitative in nature. They attempt to bring about changes in or modify the existing indigenous customary laws and practices in favour of what is called modernisation. These and other processes displace many indigenous people and lead to land alienation. The second legal method is imposition of complex administrative mechanisms even in areas where their customary law or community ownership are recognised. These legal mechanisms support the present type of modernisation and developmental activities.

That goes against the tribal concept based on the general understanding of land use among the indigenous people. The notion of exercising control over land originates from their tradition. Community control and collective responsibility rose because of the nature of collective corporate living among the people. Such collective approaches initiated the tradition of customary practices and respect for law. Basic to this system is the concept of the indigenous peoples' land use system. Their ownership and inheritance can be understood in this context and not in the modern language of the so called judicial system and State laws.

This distinction between their traditional systems and the modern State laws is important because most communities in the region have built-in modes of human being-nature relationship. Lack of political wisdom and non-accommodation of local perspectives in the modern systems have affected them systematically. The State laws are imposed on them without respect for their way of life and livelihood. As a result, over time many traditional societies have undergone drastic changes under the impact of modernisation and development. That is one of the factors that induce them to fight for an autonomous space of their own. One sees such struggles in the reaction of the indigenous peoples of Tripura against immigrants who have occupied their land and those in Karbi Anglong who try to defend their land against non-tribal cultivators who have encroached on their land.

The Genesis of Land Laws and Land Relations

That brings us to the land laws that are basic to land alienation and conflicts around it. They begin with *The Assam Land and Revenue Regulations 1886* (AL&RR).

Land Laws in Assam

This Act was enacted in 1886 and a new set of Settlement Rules were made in 1887 under it superseding the Settlement Rules of 1870. There were many Settlement Rules before the introduction of AL&RR and they were changed from time to time. For example, the British colonial regime prepared wasteland rules for "Special Cultivation" [Rules of 1838…1876] and Settlement rules for "Ordinary Cultivation" [Rules of 1870 and 1883].

They were followed by various Bengal Regulations and Acts of the Governor-General-in-Council. "The Principles behind these rules were the same as those of Settlement Rules of 1870. They have been amended from time to time, but till now the basic principles have not changed very much" (Das 1968-*reprint* 2005: 13). The AL&RR Act, 1886 was promulgated in the two Princely States of Manipur and Tripura as the "*Manipur Land Revenue and Land Reform Act, 1960*" and the "*Tripura Land Reform and Land Revenue Act, 1960*" without changing its basic structure.

Land Laws in Manipur

In the colonial period, there was dual administration in Manipur for the Hills and the Valley. The Hills were under the direct control of the British Crown. The President, Manipur State *Darbar* (PMSD) was taken care of by a British ICS officer. After the British conquest of Manipur in 1891, they did not disturb the hill villages. Instead, they recognised their Headmen (chieftains) and entrusted the village administration to them. The *Manipuri* [*Meitei*] *Maharaja* was recognised as the sole owner having control over the Valley. "Before the application of any laws in Manipur, the *Raja* of Manipur claimed absolute ownership of all lands within his territory in the valley from the earliest times and collected land revenue" (Guite 2000).

The *Chin Hill Regulation* was applied to the hills of Manipur and a house tax of Rs. 3 per year per household was imposed. Later on, the *Assam Land and Revenue Regulation 1886* was introduced in the Valley in 1947 and the *Manipur State Hill People's Regulation Act* 1947 in the Hills. After 1950 Manipur came under the provisions of Part-C of Article 371 of the Indian Constitution[1]. The AL&RR was subsequently replaced by the *Manipur Land Revenue and land Reforms Act* 1960 (MLR&LR Act). It extends to the whole of Manipur "*except the hill areas thereof.*" However, the MLR&LR Act has been amended several times. It was extended to the valley areas including Imphal, Thoubal and Bishnupur districts and to villages lying in the plains of the hill districts of Churachandpur and Senapati.

In 1956 the Parliament passed the *Manipur Village Authorities Act* (MVA) for the administration of its hill areas. It was implemented in 1957. According to the MVA every village with a population of 20 or more tax-paying households is to have a village authority and it determines the number of its members on the basis of the number of tax-paying houses. The Act also puts certain limitations on the position and powers of the village chief. Before the introduction of this Act, the chiefs along with the village authorities functioned as the village court but under this Act, the head of the State was authorised to appoint two or more members of the village authority to act as the village court.

An attempt was made in 1967 to strip the chief of more rights through the *Manipur Hill Areas Acquisition of Chiefs' Rights Act,* 1967, by paying him compensation. It was a deliberate attempt of the State to get control over the lands, customs, traditional political practices of justice etc that were under the control of the village chiefs. This Act was strongly opposed by the village chiefs but the

[1] Article 371 (C) Clause [2]: "The Governor shall annually, or whenever so required by the President make a report to the President regarding the administration of the Hill Areas in the State of Manipur and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas."

Manipur Legislative Assembly passed it despite strong opposition from the Hill Areas Committee (HAC). But it has not been implemented properly.

In 1971, Autonomous Districts were created in the Manipur Hills by an Act of the Parliament outside the scope of the Sixth Schedule. The Act is called the *"Manipur (Hill Areas) District Council."* But the District Councils are moribund now. "Thus the autonomy granted to the district councils under the act is only in name" (Devi 2000: 182).

The Laws in Tripura

Before Independence, the Prince of Tripura claimed to be the owner of all lands within his territory. But after independence, the reign of the Tripura King came to an end and all the rights over lands were vested in the State Government. Eventually, the State legislature passed a new land law-TLR&LR Act. Under it all lands are not the property of any individual person but of the State. The basic objective of the Act is to bring the cultivators in direct contact with the State and guarantee them permanent heritable and transferable rights over land cultivated by them.

In order to stop tribal land alienation, Section 187 of the Act imposes restrictions on transfer of tribal land to non-tribals without the prior permission of the District Collector. Subsequent amendments have added more comprehensive provisions for the protection of tribal land rights including restoration of transferred land to the non-tribals. However, its implementation has been weak. From the initial exercise of land restoration till March 2001 a total of 28,999 cases were filed before the Revenue Department involving restoration of land. But only 8,636 of them have been disposed off with the decision to restore illegally transferred land but only a few acres of land have been physically restored to the tribal owners.

Laws in Mizoram

Villages in Mizoram had an independent Chief who was the absolute owner of all lands within the village. Traditionally, he granted homestead and arable lands to the members of his community. When the British annexed the *Lushai* Hills [now Mizoram] they retained the system of Chieftainship undisturbed. The house-tax was collected under the *Chin Hill Regulation* through the agency of the village Chief.

Lushai Hills were a part of Assam. After independence, its State Assembly enacted the *Assam Lushai Hills District (Acquisition of Chiefs' Right) Act*. The Chiefs were paid compensation according to the Act and all their land-rights were vested in the State. "All land rights in Mizoram thus came to be vested in the state of Mizoram. But the legislature of the state passed no law on land. The District and the Regional Councils, in exercise of powers under the Sixth Schedule however, enacted a large number of legislations on different aspects of land" (Das 1968: 173). For instance:

1. The Mizo District (House-sites) Act, 1953.
2. The Mizo District (Land and Revenue) Act, 1956.
3. The Mizo District (Transfer of Land) Act, 1963.

The Meghalaya Laws

In the *Garo, Jaintia* and *Khasi* Hills too the British administration did not interfere with their customary land rights and tradition. After Independence, under the provisions of the Sixth Schedule, the *Garo* Hills and the *United Khasi and Jaintia* Hills became Autonomous Districts. "The Council had powers to make laws of allotment, occupation, use or the setting apart of land for the purpose of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants. In exercise of these powers, the district council very soon made certain laws and regulations relating to land matters" (Das 1968: 184).

The United Khasi and Jaintia Hills District Council enacted (a) *United Khasi and Jaintia Hills District (Land Revenue) Act* 1954 and (b) *United Khasi and Jaintia Hills District (Transfer of Land) Act*, 1953. The Garo Hills District Council passed (a) the *Garo Hills Autonomous District (Land and Revenue) Regulation* 1954, and (b) the *Garo Hills Autonomous District (Transfer of Land) Act* 1954.

All these Acts prohibited transfer of land from a tribal to a non-tribal or from a non-tribal except with the previous permission of the Deputy Commissioner. After Meghalaya attained Statehood in 1972, the District Council had no power to make laws on the subject of transfer of land. The State legislature in exercising its powers under the *Meghalaya Transfer of Land (Regulation) Act, 1972*.

Arunachal Pradesh and Nagaland

In Arunachal Pradesh, the management of lands in the village is vested in the village community. There also exists individual land and its owners have a right to parcel it out. Land transfer and inheritance are barred by certain customary restrictions. For instance, a person must not sell his landed properties to a person of another tribe or another village. *Jhum* land Regulations were passed in 1947 to define the rights and liabilities in relation to it [The *Sadiya Fronteir Tract Jhumland Regulation,* 1947]. *Jhum* land over which a community has acquired a customary right is not transferable to another community or individual except with the permission of the Land Conservator or Deputy Commissioner.

In Nagaland, there is no comprehensive general enactment on land use. The land system is governed by the customary laws. However, there are some Acts related to land like the *Nagaland Jhum land Act*, 1970 and the *Nagaland Village and Area Council Act,* 1978. The NJ Act is the same as the *Frontier Tract Jhum land Regulation, Arunachal Pradesh*. NV&AC Act is important regarding the transfer of land. "No transfer of immovable property shall be effected without the consent of the village council. Written records of this shall be maintained by the village council." [Section 15:1 G]. Otherwise all lands in Nagaland are regulated by the customary laws. To put it briefly, the village is the unit of administration of all customs relating to land. Generally the land use system in the Naga society is divided into four types: (a) Common village land or community land (b) Clan land, (c) individual land and (d) *Morung* land.

Conclusion

We have studied in this chapter the importance of land as the centre of tribal life. We have also looked at the processes that can result in tribal land alienation. The development projects and encroachment of tribal lands by the immigrants are the external factors. Also internal factors such as the commercial values entering their communities have led to transfer of land within the tribe. Land laws that began in the colonial age can intensify these processes. That is the reason why we looked at the land laws in various States. We shall not proceed to look at the instances of alienation.

Chapter 3: Main Issues around Land Alienation

After the legal system, it is important to look at the remaining issues of alienation. We present in this chapter the background papers that give the main issues around land alienation. The first is the very attitude towards the tribals and their land. We have said in chapter 2 that at least in the Northeast they were treated as an appendix that did not count. We shall now study some of its implications.

Land Alienation through Displacement

Professor A. C. Bhagwati, a well known anthropologist and former vice-chancellor of Arunachal Pradesh University gave the keynote address at the conference of March 9-11, 2006. In it he deliberated on the *Lebensraum* notion, which has increasingly rendered the indigenous peoples less and less attached to their land. A consistent Government intervention has been acquisition of more and more land. The second external intervention is migration of people and occupation of tribal lands. They are among the major processes that have resulted in the indigenous peoples losing control over their land. He noted with concern that wherever there is been any degree of immigrant pressure, the socio-economic and cultural condition of the local people is adversely affected.

In the past, the communities like the *Mizo, Boro-Kachari* and *Kuki-Chin* were very mobile. For instance, the Mizo and Kuki were spread over Tripura, Assam, Manipur and Mizoram and but probably not in Meghalaya. The *Bodo-Kachari* habitat was "so expansive" that it spread to the extremes of the region, reaching the south banks of Karbi Anglong. However, today the picture is quite different because of the dwindling access of the indigenous peoples to their lands.

Development projects are their main cause and Prof. Bhagwati gave the example of National Highway 37 that has changed the scene completely during the last 35 years. The land that has been used for the bypass near Guwahati, including the Games Village was once tribal livelihood. Several tribes, especially the Karbi, Tiwa and Garo could found in sizeable numbers in these areas. One cannot even exclude the use of dubious means by the State or the contractors to lure the original occupants to part with their land such as "One bottle of Rum for one *bigha* of land". Karbis in and around *Ganeshpur-Dispur* area used to grow orchards. The area was fertile and yielded abundant fruit. Today this fertile area has been privatised and the Karbi have lost it. Based on it the speaker argued that "Entire Guwahati has seen displacement".

Besides, large tracts of land are acquired from classified State forests and reserve forests many of which were the livelihood of indigenous peoples but the law has turned them into State property. Because of it they are forced to become just observers in the name of development. For example, the 20,000 MHz *Siang* Dam in Arunachal Pradesh will greatly affect the tribals whose habitat is being submerged but their right over it is not recognised. They are treated as objects of the State legal system not as subjects who are capable to taking decisions concerning their livelihood.

The analysis confirmed the view expressed in chapter 2 that, legal changes make land alienation easy either for development projects or to resettle immigrants. That, for example, is the result of the *Assam Land Reforms and Land Regulations Act 1886* which was amended in 1947 and chapter 10 was added to it. That has gone completely against the indigenous peoples mainly because it makes manipulation of records easy. Land grabbers have become active after it and because of their machinations only 25 of the 35 belts and blocks now remain with the tribes.

A conclusion emerging from the above analysis is that the indigenous communities should be made participants in the processes of development. What we see today is one-way traffic without any free and open dialogue. They are only objects of the law and do not have any voice in what concerns their livelihood. This system has to change and the indigenous peoples have to become participants. Secondly, the existing provisions should be modified and compensation issues made acceptable to the indigenous peoples. *"If the people have no control, people do not feel the need to control. Need to stop the process of land alienation, not by rules and regulations alone but to ensure love and regard for indigenous people's land."*

A Comprehensive View

While accepting the injustice done to the tribals, Prof. Monirul Hussain of the Department of Political Science, Gauhati University cautioned against looking at the issue as affecting the tribals alone in isolation. Land alienation is not confined to the tribals but affects them more than the remaining communities. A perennial problem in Assam is river bank erosion by the Brahmaputra. It has eaten up more than 700 villages in the last two decades. However, when a stronger community is affected, it may come and encroach on the land of a weaker group. By and large it is tribal land. In other words, also those processes that affect all the communities have a more serious impact on the tribals than the others.

Many modern processes push all the communities out of their ancestral domain and into the semi-urban and urban world. However, the tribals suffer more since they lose their livelihood fully but are not prepared technically to take up middle class jobs. In the era of Globalisation, this has deepened the gap between the "mainstream" and the marginalised communities like the tribals. Besides, the North Eastern region has become a security zone and that has taken over large tracts of land for airfields and cantonments in the name of national security. Militarisation and erosion affect all the communities but the marginal communities feel the impact more than the others do. Hence it is important to view the issue in its totality and situate the indigenous communities in this context.

Even while giving importance to militarisation, one cannot ignore development-induced displacement of populations. It comes in the form of planned or project-related displacement. It may be for wildlife sanctuaries, the transport infrastructure, dams, industries or others. All of them are presented as national development and those who lose their livelihood to it are called anti-national. In this approach land is an "object of exploitation." The livelihood aspect is all but ignored.

It is this approach that creates the problem of land alienation. Because land is viewed as a commodity and not people's livelihood, the communities that sustain themselves on that land are devalued and the displaced people are not even rehabilitated. They need rehabilitation as much as protection from alienation. Rehabilitation is understood as a process of security, dignity and economic viability while the State thinks only in terms of compensation. That too is intrinsic to the view of land as an "object of exploitation". In this thinking those whose livelihood it is can be ignored. So the concept of "vulnerability to empowerment" should be implemented adequately.

Changing Land Relations and Alienation

The Conference had its origin in the macro-study *Land Relations and Ethnic Conflicts in the Northeast* (Fernandes and Pereira 2005). It was an effort to understand the traditional landowning systems and the recent changes that the tribal communities have introduced in its management. In order to understand the situation the researchers examined the cases of the *Dimasa, Boro* and *Adibasi* of Assam, the *Aka* of West Kameng district in Arunachal Pradesh, the Angami of Kohima district in Nagaland, the *Garo* of West and East Garo Hills in Meghalaya and the *Rongmei* of Manipur.

This look was essential for the Northeast because most ethnic conflicts in the region revolve around land. Among them one may mention the *Kuki-Naga, Bodo-Adivasi, Karbi-Pnar, Dimasa-Hmar* and other conflicts. A solution to the conflicts would then require an understanding of the processes of land alienation. However, the study once again brought out with force the fact that, the problem of land alienation does not have simple causes, hence also the solutions suggested should not be simple. The complexity of the situation has to be recognised.

The first aspect of this complexity is the legal system which creates a contradiction between their customary laws and the formal law. Not all tribal land is community owned. There is a variety of systems. For example, the Angami have a combination of village owned, clan controlled and individual land but the community aspect is intrinsic even to individual ownership. The *Adivasi* only have individual ownership today since they have lost their customary law to a great extent. Among the Aka even the concept of individual ownership is unknown. There are variations of this concept among the Garo, Rongmei and Boro. While the Aka, Dimasa and Garo consider themselves CPR dependants,

the Boro who continue to live on community owned land according to their customary law, call themselves encroachers on it. They have thus internalised the individual ownership ideology.

That is the foundation of the formal law which is individual ownership based and contradicts the very concept of community control. The customary law, and by implication community control, is recognized to some extent in Nagaland and Mizoram. It is recognised partially in the Sixth Schedule areas of Meghalaya and two districts of Assam. As seen in chapter 2, there are some special provisions in the remaining States but not recognition of community ownership.

That is the first cause of land alienation. The Northeast probably received about 5 lakh refugees in 1947. In that emergency no questions were asked about the legality of their occupying land for their self-rehabilitation. Much of what they occupied was CPRs, most of them in the tribal areas. After that emergency was over, immigrants from Bangladesh, Bihar and Nepal have continued to encroach on their CPRs. Their number is probably ten times that of the Partition refugees. The legal ambiguity goes in their favour. Because the law does not recognise tribal right over their community land, the immigrants can encroach on it with impunity. Thus, the push factor for migration is poverty and lack of land reforms in their feudal society. The pull factors are the fertile land in the region that they can occupy because of the legal ambiguity and the need for cheap labour in the region.

The Ambiguous Administrative Systems

The ambiguity is not limited to the legal system but is seen in the individual approach to the administration and to the finances. Even in the Sixth Schedule areas, the State treats the *gaonburah* as the owner of land when in fact the village owns it. That makes alienation for defence, development and other projects easy. The administration has to deal with one person to transfer that land. In fact, the law of the Sixth Schedule in Karbi Anglong and North Cachar Hills has taken much power of decision on land away from the village council and handed it over to the District Autonomous Council which the State administration can control more than it does the village council.

That makes land alienation relatively easy unless the local community is aware of its rights and is ready to fight for them. That is what the Khasi villagers of Domiasiat did for several years when the State wanted their land for uranium mining. They were not ready to part with it but they also faced other pressures such as refusal of the State to provide their area with basic amenities like schools and the promises made by the project authorities provide these amenities if they were ready to part with their land. Thus the villagers were caught between the refusal of the State to provide these amenities and the promises made by UCIL to provide them. One is not certain that the promises will be kept once they part with their land. Experience in places shows that they are not kept.

Such promises are not even required in areas outside the Sixth Schedule area. Land can be taken over without even consulting the community depending on it because it is considered State property. For example, only around 4 lakh acres out of the 14,01,184.8 acres used by development projects in Assam 1947-2000 are privately owned. Most of the rest is CPRs, much of it tribal but it is considered State property. As a result, 40% of the 19,09,368 persons who have been displaced on deprived of their land are tribals but are not even counted. As far as the administration is concerned, they do not exist. Their participation is not solicited in decisions concerning their livelihood. They are not even compensated for its loss, leave alone rehabilitated.

In other words, apart from the legal system one has also to look at the processes of modernisation as depriving the indigenous communities of their land. Modernisation cannot be rejected as totally negative. The indigenous communities have as much a right as any other group to modernise themselves. However, if it is imposed on them, it can be destructive of their life and culture. One cannot take either modernisation or their tradition as absolutes. One may have to find ways of modernising their tradition.

The State imposes one type of modernisation on them in the name of development. It results in their land alienation and they get no benefits out of it. It results in their impoverishment and marginalisation. The individual based modern law is presented as modern and their customary law as outdated. On their part, some of their leaders themselves internalise this ideology. For example, the

Dimasa elite consider individual *pattas* modern and community ownership outdated. The State supports it by encouraging coffee and other commercial crops on individually owned land. Its result is monopolisation of their land by a few individuals. In chapter 2 we have called it the internal dynamism resulting in the process of land alienation.

In order to modernise tradition, it is also important to understand the processes that have led to the present situation. Its first step may be to question the very thinking about tradition. For example, the individual based law is considered modern and that gets one to reject the tradition. In other cases, the customary law itself may be interpreted according to the norms of what is called modern. For example, even where the customary law is recognised, the male elite of the community interprets it in a very restrictive manner and strengthens the processes of male domination. In fact, modernisation of their tradition would involve reinterpreting it according to the value of human equality to which gender equality is integral. That may result in the community reinterpreting the relatively high status of women in a new light.

In reality in many of their community leaders seem to have internalised the "modern" individual and male ideology. Many processes have led to it, the State administrative systems being one of them. Individual based education and conversion to Christianity or Hinduism, both of them male dominated religions add to this change. Thus, religious change and education have on one side helped the tribal communities to acquire a sense of history and pride in their past and on the other have strengthened the processes of individualism and of male domination. That can result in class formation and strengthen patriarchy. Both of them can lead to internal land alienation. Class formation is based on transfer of tribal land to a few individuals within the community. Male domination involves women losing the little control they had in the past over the community resources.

Modernisation of tradition would then involve using all the inputs of religious change and of education to strengthen their tradition by adding to it the values of equality. That requires a blend between their tradition and the values that these inputs have brought into their communities. A value that needs to be retained is the sacredness attached to their land and forests. The new religions do not destroy such sacredness but do not give it adequate importance either. A new ideology of sacredness of the creation of God may have to be developed, based on their tradition and the values of the new religions.

Respecting Diversity

Another aspect that cannot be ignored in this search for a new type of modernisation is the diversity of peoples and cultures. As Mr. Sanjay Barbora of Panos South Asia said in his introductory note of the conference, the region called North East India has a bewildering diversity of ethnic groups and politico-legal structures. This diverse region has always had a special relationship with what is commonly perceived as the centres of power and wealth since the nineteenth century. In the last one hundred and fifty years, since the first European administrators and speculators set foot in this region, the indigenous peoples have had to put up with demographic, political, economic and social changes that are of immense importance in placing the thinking around land within a historical context.

Before colonial intervention the Northeast was a region to which of nomadic and other tribes came and eventually settled down and became part of its diversity. Colonial inputs turned into a region to which outsiders who were brought as workers or administrators continued to remain outsiders. They occupy the land of the indigenous communities but do not become part of the diversity for which the region is known. Its main reason is that with the coming of the British colonialist, immigration ceased to be a part of the nomadic process and became an outcome of deliberate colonial policies. For example, the *Adivasis* of Jharkhand and its neighbouring regions were displaced by the land laws the British regime imposed on them and were forced to migrate to Assam as tea garden workers in slavelike conditions. The tea garden management kept them isolated in order to deprive them of support against their exploitation.

It is because of this diversity that the research papers on this issue deal with a variety of issues. They do not just tell the story of change but also show a possible direction towards which it is heading.

In that sense, the papers remind one of the continuity between the colonial past and the so-called post-colonial present. The change in land relations is one of the ways in which the encounter with modernity affects indigenous societies in the region. And it has had a great impact on gender relations within the indigenous communities. Commercialisation and individualism have resulted in women being sidelined in the production process among many of the indigenous communities. At the same time, it has also meant that today, a woman's workload is much more than what it was a few decades ago.

Conclusion

This chapter has given the processes that result in tribal land alienation in the Northeast. One cannot attribute it to any single cause such as the State or religion. A combination of causes has to be understood. The State is basic to it so is religious change and education. However, land alienation cannot be understood only as a process coming from outside the tribe. Also it internal dynamics have to be understood. That is why the papers given in the next chapter study the aspects of modernisation, legal changes and the gender issue.

Chapter 4: Modes of Land Alienation

We have studied till now the processes that result in tribal land alienation. That was the background of the case studies which were done in all the seven States of the region in order to get a better understanding of the situation. The communities covered include the *Dimasa, Karbi* and *Boro* of Assam, *Lotha Nagas* and *Angami Nagas* of Nagaland, *Tangkhul Nagas* of Manipur, the Garo and Khasi of Meghalaya, the Mizo of Mizoram and people to be affected by the proposed dams in Arunachal Pradesh. The studies deal with tribal land alienation at the micro-level and focus on the extent of land alienation. However, they do not ignore the macro-processes discussed till now. Thus it is empirical research on the traditional systems of land relations and management and the processes that different indigenous groups have lived through. Thus, they bear in mind the legal systems, the process of modernization and gender implications in the context of the diversity discussed above.

Out of 12 case studies, one could not be done because of the situation of conflict in Upper Assam. Three others from Mizoram, Khasi Hills and Garo Hills were incomplete but their summary that came later is being presented here. In Manipur the study was done by UA Shimray, among the Angami by Vizalenu Khatso, in the Merapani area by Dolly Kikon, among the Dimasa by Sarabjit Thaosen, in Karbi Anglong by Uttam Bhatari, among the Boro by Bijoy Daimari, in Tripura by Uttam Bhatari and in Arunachal Pradesh by Tongam Rina. For the Khasi it is being done by Angela Rangad, for the Garo by Clement Marak and in Mizoram by Lalrendiki Ralte. Gita Bharali prepared a paper on displacement in Assam 1947-2000.

1. Comparative Reflections on Land and the Law

We have mentioned the importance of the land use system and its social, political and cultural implications. What comes out of the case studies is that the traditional tribal land use and management system depended on their customary law that was built on the needs of the whole community. The management system was based on the principles of equity and sustainability. The resource was considered a gift from the ancestors meant to be used according to the needs of the present generation and preserved for posterity. Everyone's need was its guiding principle.

Land in Tribal Tradition

Among the *Tangkhul Nagas* of Manipur, each village has a component of (i) population of various clans (ii) village territories [land and forest] and (iii) sovereignty. Its administration was based on the indigenous self-sufficient economic system. The customary law was feared and respected in the village. Its land and territories were well defined by natural topographic features like ridges, streams, hillocks and boundaries marked by stones. The setting of the village ecology that included its territory, land and forests was a crucial element in their livelihood. This system also gave them a sense of security and belonging. To them land was more than just a habitat or a political boundary. It was the basis of their economic system and culture. By tradition, the village chief was the nominal owner of the village land but in practice it belonged to the whole village. Each village respected the boundaries of the other and did not pursue any economic activity in it other than hunting and fishing.

The *Angami Nagas* had both individual and community based rights over land. Some of their land use systems are similar to those of the Tangkul because both are terrace cultivation based tribes. For example, among both of them some plots of land are held jointly by the members of a clan. The Angami Nagas are passionately attached to their land. Men control all clan land but women perform all the agricultural duties including marketing the surplus. By and large the *jhum* cultivation plots that are considered their secondary cultivation are controlled by women.

The frontier communities like the *Lotha Nagas* in the Wokha district of Nagaland have had a traditional relationship with the *Ahom* of Assam. That relationship is based on a blend of "hostility" and "friendship." For the preservation peace on the borders these two communities did not subjugate

each other and respected their traditional land tenure system. In the 1880s, the British colonialist gradually brought the Naga areas under their control and limited administration but took care not to disturb their traditional system especially in what concerned land use and management. Besides the colonial regime did not levy any land tax on them.

In their tradition *Karbi* hill villages did not have fixed or recognised boundaries because they shifted from place to place according to the availability of *jhum* sites. Cultivable land was divided among the households by the *me* or village council at the first settlement of a village in a new locality. Land was communally owned and the village council chose the *jhum* sites. Most villages were named after the headman (*Sarthe*). His was a coveted position and honoured in all social-religio-cultural transactions.

The *Boros* practise private ownership of land on an annual or Periodic *Patta* basis. In a village except for the grazing ground, playground, place of worship and educational institutions, all lands were owned and managed privately. The lands of the grounds and institutions mentioned are owned and managed by the village community as a whole. Since the 1950s, there has been large scale land alienation in the Boro areas.

Because of their dual system of parallel matrilineal and patrilineal clans the Dimasa woman's status was relatively high but their society remained patriarchal with modifications such as sons and daughters sharing common property. But a daughter could not inherit paternal property even when the family did not have a son. However, the basis of land ownership among them was the community that was controlled by the village council all of whose members were men.

All the Arunachal tribes are patrilineal. The father is the family head. Ownership and inheritance of landed property is through a son and in his absence, the nearest male relative. However, the woman was an active participant in the economy based on it. For example among the Gallong the family composed of the father, mother, sons with their wives, unmarried daughters and married daughters till they attain motherhood enjoyed different degrees of rights over land. Among the Minyong the man chooses the plot for *jhum* cultivation in a given year. After it, the woman takes charge of its production. Thus as in other *jhum* societies, among the Minyong too she has some control over her sustenance as long as it is CPRs.

In Meghalaya all three major tribes are matrilineal. In the tradition of the predominantly *jhum* or settled agriculture subsistence farmer Garo tribe spread over the Garo Hills and parts of Assam, the woman was the heiress but decisions concerning land were taken by her husband. However, men were not allowed to own land. Property acquired by him was understood to be in the woman's name.

Among the matrilineal Khasi, as the heiress or *Khadduh* the youngest daughter shoulders responsibilities as guardian of the family property and is the custodian of its religion. The name *ka iawbei khynraw* given to her indicates her privileges and responsibilities. As family treasurer she meets its expenses for ceremonies such as weddings, naming etc and religious rites such as bone interment of dead relatives. She looks after family members who fall into misfortune like disability, husband's or wife's death, divorce and so on. She gathers family members at the *ing-seng* (foundation house) for family rituals, prepares for the religious rites and assists her maternal uncles in their performance. However, in practice her maternal uncles (*ki kni*) and brothers control her property. In that sense both among the Garo and the Khasi the woman is the guardian of the family property.

True to the matrilineal principle, the Jaintia woman looks after the family, rears, trains and educates her children and is in overall control of household affairs. Men figure only in making decisions on crucial matters like buying and selling of movable and immovable property, cultivation, trade and business and are expected not to interfere with what she decides.

The Mizo are more than 90% of the tribals of Mizoram. In their tradition, the man was the sole owner of all village land. Under the Lushai system, all property devolved through males. If a man left behind only minor sons and a widow, a close male relative took over his property and looked after the family till a son attained adulthood. However, the basic ownership system was community based.

Changes Leading to Alienation

Already in chapter 2 we have highlighted the land Acts of some States that are basic to tribal land alienation. Most case studies emphasised this point. By and large the tribal customary laws have a community aspect but the State laws do not recognise it except in Meghalaya and two districts (NC Hills and Karbi Anglong) of Assam that come under the Sixth Schedule, Nagaland that has Article 371A and Mizoram with article 371G. The Manipur Hill Areas District Council Act recognises the customary law to a limited extent but in most of the Northeast it lacks legal sanction. In Tripura the most comprehensive land law is the TLR&LR Act which is ambiguous on provisions that are supposed to protect tribal land. With its enactment all land laws in existence in the State till then were repealed and all tenures abolished. All land became State property.

Land use in the Manipur Valley is regulated by the MLR&LR. The State tries to expand its control and influence to the tribal areas by bringing their land under the MLR&LR. An amendment was suggested to omit sub-section (2) of section 1 where the words "*except the hill areas thereof*" and the provision thereto. Section 2 states: "*It extends to the whole of the State of Manipur 'except the hill areas thereof,'"* provided that the State Government may by notification in the Official Gazette, extend the whole or any part of any section of this act to any of the hill areas of Manipur also as may be specified in such notification. Removal the word "except the hill areas thereof" would have made the Act absolute and statutory also in the hill areas and would have enabled the non-tribals to purchase land in the hill areas.

The MLR&LR (Sixth Amendment) Bill proposes to insert a new section 13 (B) as: "*Power to regulate and control Jhum or migratory cultivation; the state government may make rules for regulating and controlling jhum or migratory cultivation for protection of environment, catchments areas of irrigation, hydro-electric and water supply project and prevention of land slides near National and state Highways and major district roads."* The hill communities, on the contrary, are demanding the extension of the Sixth Schedule to all the hill districts. But this demand is not supported by the (non-tribal) *Meitei* community of the Valley. They are in favour of extending MLR&LR Act to the hill areas. Thus, there is polarization in Manipur around the land issue.

Thus the "ambiguity" in the legal system can create problems rather than find a solution. For instance, the Manipur State Government took a decision to recommend the extension of the Sixth Schedule to the tribal areas in the Hill Districts of Manipur with certain "local adjustments" and amendments. The Ministry of Home Affairs, Government of India have sent several reminders to it clarify the clause "with certain local adjustment and amendments." The fact is that the clause is intended to insert the MLR&LR Act so that statutory provision is given to non-tribal to access to tribal lands. Thus, the effort is to make it possible for non-tribals to occupy tribal land.

Box 2: THE MANIPUR LAND REVUENUE AND LAND REFORMS (AMENDMENT) BILL, 2005

A BILL

Be enacted by the Legislatures of Manipur in the Fifty Sixth year of the Republic of India as follows:

1. Short title and commencement:

(1) This Act may be called the Manipur Land Revenue and Land Reforms (Admendment) Act, 2005.

2. It shall come into force on such date as the State Government may be notification in the official Gazette, appoint.

2. Amendment of Section (1):- In Section 1(2) of the Principal Act the following be deleted-

"except the hill areas thereof:

Provided that the State Government may, by notification in the Official Gazette, extend the whole or any part of any section of this act to any of the hill areas of Manipur also as may be specified in such notification."

STATEMENT OF OBJECT AND REASONS

The Manipur Land Revenue and Land Reforms Act, 1960 (Act 33 of 1960) as mended from time to time is the existing land law under which revenue administration is exercised in the state. The existing Act, which was enacted by the Indian parliament almost 40 years back, has been substantially amended from time to time since its adoption by the State Legislatures specially after 1972 when Manipur became a full-fledged State of the Indian Union. Notwithstanding, the various amendments incorporated so far and relevant Rules framed under this Act, a major lacuna still remains in the Principal Act.

This Act is not a uniform land law for the entire state and excludes the hill areas from its area of operation. Section 1(2) of the Principal Act while defining the extent of this Act excludes the hill area from its ambit. A proviso has been added below Section 1(2) whereby a separate notification is required for extension of the of the MLR&LR Act in the hill districts of the State." The statement further mentioned that: There is immense pressure on land in the valley areas comprising of the remaining 4 (four) districts causing tremendous pressure on land. The lack of a uniform land law has created and fermented social tension amongst the multi ethnic society of our state.

Manipur with a total area of 22,327 sq. kms, comprises of 9 (nine) revenue districts out of which 5 (five) districts fall in the hill areas. There is immense pressure on land in the valley areas comprising of the remaining 4 (four) districts causing tremendous pressure on land. The lack of a uniform land law has created and fermented social tension amongst the multi ethnic society of our state. It is also the popular desire of many sections of the people of the population in the state that there must be one uniform land law which is equitable. One must be allowed to settle everywhere in the state and there should not be any restriction for settlement in the hill areas for every citizen of Manipur.

Hence this Bill

Sd/-

Shri I. Hemochandra Singh and
Dr. Nimaichand Luwang, MLAs,
Manipur Legislative Assembly.

As for the *Boro*, the amended Chapter X of *Assam Land and Revenue Regulation of 1886* makes provision for the creation (protection to the plain tribes) of Tribal Belts and Blocks for the tribals of Assam plains. Under its provisions 33 Tribal Belts and Blocks (TB&B) covering 5,704 sq. miles (1,09,73,673 *bighas*) were created. They are over five districts namely Goalpara, Kamrup, Darrang, Lakhimpur, and Nagaon. The Committee stated that the creation of the TB&B failed to serve the purpose mainly due to the non-implementation of the provisions of Chapter X by the Government. As a result, despite the Regulation being in operation, illegal occupation and transfer of land by the non-tribals within the TB&B continued. In the 1950s and 1970s, alienation assumed alarming proportions. Thousands of Bengali immigrants crossed over to Assam and 'others' like the Biharis, Punjabis and Marwaris came to the region. Bengalis continued to dominate the urban areas constituting 37.9 per cent against 33.4 per cent Assamese and 13 per cent Hindi speaking people. There is unavoidable pressure of the immigrants on the lands[2].

[2] For the stoppage of land alienation, the Assam Government in 1974, constituted a 12 member Sub-Committee called the Sub-Committee of Advisory Council for Welfare of Scheduled Tribes (Plains) on Settlement of Land in Tribal Belts and Blocks and the Forest Land to inquire into the alienation of tribal land. The 12 member Sub-

Non-recognition of community ownership in such tribal areas encourages land encroachment. Migrants can occupy it with impunity since the tribes do not have an absolute right over it according to the present law. Such cases prevail on a large scale in the *Boro, Karbi* and *Dimasa* areas of Assam. For instance, Udalguri town, the headquarters of Udalguri district has approximately 2,500 families out of whom only some 20 per cent are Boro and the rest are illegal non-tribal settlers.

Besides, this land related issue does not limit itself to the ambiguity of the legal system by directly or indirectly helping non-tribals to encroach on tribal land. It results in conflicts. In the 1980s and 1990 Assam experienced a series of ethnic clashes between the Bodos and the migrants. Lower Assam constitutes the traditional Bodo territory but outsiders settling in it had caused growing pressure on land. The *Kuki-Naga* clash in Manipur is primarily for the control of land, ethnic territory and resources so are many other ethnic conflicts.

2. Tribal Land and Gender

Land alienation is not merely physical transfer but also change of control over it. One of the areas in which it takes place is in gender relations especially in inheritance. The tradition of most tribes is male inheritance. All the tribes, even when matrilineal, are patriarchal but the woman is the heiress among the three tribes of Meghalaya. In most patrilineal tribes if there is no male inheritor the property goes to the nearest male relative. However, most tribes keep a clear division between clan and acquired property. Men control and inherit the former but in many tribes what a man or a woman acquires can be gifted either to sons or daughters. As a result, most women do not own any immovable property unless they acquire it or their parents or brothers gift it to them. However, most tribes make provision for the woman's security. There are indications that even that concession is changing.

Inheritance and Transfer of Land

The *Angami* and *Tangkhul Nagas* are terrace cultivators and have some similarities in their ownership and inheritance system. Both have individual ownership of land inherited from the parents. Therefore, every man owns land and enjoys every right of ownership. Some land and forests are held jointly by the *khel* (clan or lineage) and that cannot be sold by an individual. Only men can inherit it. Acquired property can be gifted to daughters. Both among the Angami and Tangkul Nagas a man cannot gove land in perpetuity to a woman, and no woman can inherit land permanently. However, the *Angami* allow women to inherit *jhum* land while Tangkhul women are allowed only acquired land. Widows are entitled to a portion of their husband's immoveable property as custodians of the household until the heir is old enough to accept his responsibilities. Among both the Angami and Tangkhul, movable property may be inherited by women. They can receive land bought by their parents and can also buy land of their own. Thus property rights and rules of inheritance, though discriminatory against women do not prevent them from owning or even inheriting landed property.

Land transfer or sale is possible among the *Tangkhul Nagas* only within the prescribed limits according to their customary sanctions. No land is to be sold, mortgaged, leased, bartered, gifted or

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Committee found out that such large scale land alienation was possible primarily due the slackness of the Assam Government. The Government officials themselves were found becoming agents of legal and illegal transfer of tribal lands. The Sub-Committee after having visited "almost all the circle officers" found that"…the provisions of the Chapter X of Assam Land and Revenue Regulation Act have nowhere been sincerely implemented. On the other hand, it appears to the Committee that the officials responsible for the implementation of the said provisions have, instead of guarding the interests of the Tribal people within such Belts and Blocks for whom these are meant, frequently infringed the provisions by themselves by way not only conniving the encroachers in Sarkari Land but also allowing illegal land alienations that have taken place from tribal to non-eligible non-tribal and thereby, giving indulgence to those illegible persons to infiltrate into the Belts and Blocks. Many of such infiltrators have been able to get either settlement or mutation of land and also registration of sale deeds etc. through the collaboration of some of these officials.

otherwise transferred to an outsider or a person not from the village. Their customary law demands that, at the first stage its sale or mortgage or barter be conducted among the close family and clan members. If the immediate family members cannot buy it a seller scouts among the members of other clans for prospective buyers

Also among the *Angami* the owner's clansmen have the first right to buy land but if there is no buyer among them he can sell it to someone else within the *khel*. Only when there is no buyer within the *khel*, he can sell it to someone in the village. At present one can sell land to an outsider but it is not done easily because land and forests are valuable as forms of wealth contributing to social status.

Lotha women have no rights over village, clan or family land. Sons inherit family land. If a man has no heirs, it goes to his nearest male relative. If there is no such member, it reverts to the clan. Among the Chang Naga, women do not inherit paternal property but her male siblings give full support to a divorced woman. If her children live with her, they remain members of their mother's family.

In the *Karbi* society, wife and daughters do not inherit anything other than personal property, ornaments, clothes etc. In the absence of a male issue the widow can inherit the property by marrying into her husband's *kur* (clan). Sons inherit all the landed property at the death of their father. If the deceased person does not have a son then the nearest male member of his *kur* inherits it but the eldest son gets a little more than the others do. The family usually continues to dwell together, the grown up sons supporting the widowed mother. Adoption is unknown.

Among the *Dimasa* the homestead, wet land and other individual land is transmitted from one generation to the next along the male line. In the past they used to migrate from village to village in search of new land and a person who migrated to a different village could not claim the original land wherefrom he or his clan migrated without leaving any claiming mark. People can transfer land with the permission of the *Gaonburah* (village Headman). But if in the shifting process they leave a plot of land unclaimed, it can be acquired and used by others.

The *Boros* do not have a definite customary law relating to property inheritance. The general practice was for the eldest son to take charge of the property on the demise of the head of the family and look after his widowed mother, brothers and sisters. However the family used to break up with the marriage of the other brothers and the property used to be shared among them in different proportions.

We have already referred to the Gallong of Arunachal Pradesh among whom men alone control immovable property. It is the case also among the Minyong but the girl enjoys some rights till she becomes a mother. Aka women too cannot inherit immovable property but are given some movable property at marriage or when their ancestral property is shared among the living members of the family after the father's death or under other circumstances. Also the Wancho of Tirap district restrict inheritance to the male line through. primogeniture. Women cannot inherit land but widows can retain the right to its use during their lifetime. A couple without a male child can, with the consent of the head of the clan, choose a young man to live with them, marry their daughter to him and get him to inherit their property. The Hill Miri women cannot inherit land or immovable property but their tradition allows a girl some rights over private property or money or to become one of the temporary owners of her parents' property till her marriage. A widow not separated from her in-laws has a right over her deceased husband's property. The Nishi customary law too excludes women from ownership and inheritance. The Monpa do not allow women to inherit landed property but permit it when the parents have only daughters. Thus the customary laws of most Arunachal tribes are biased against women but also have provisions in their favour. Thus even while not considering women equal to men, most Arunachal tribes ensure their security.

All the Tripura tribes follow the patrilineal system of inheritance. Even the widow gets nothing though she may enjoy the fruits of what her husband owned, till her remarriage or death, but without a right to alienate it. If a man dies childless, the nearest male kinsman inherits his land. Though girls cannot inherit paternal property, their father usually gifts some of it to his daughter during his own lifetime. Among the Jamatia daughters do not inherit land even when they and their husbands live in the parental home. However, daughters of a man without a male issue get equal shares. The widow does not inherit her husband's property but enjoys its fruits during her lifetime without the right to alienate it. Among the Halam too, sons inherit their father's property. If the father leaves behind a daughter but no son, his

property goes to the nearest male relative. However, this practice is changing. In order to bypass the rule, often the father makes a gift of his property to his daughter during his lifetime, leaving a small portion to the relative. The Chakmas too are patrilineal and divide parental property equally among the sons.

In matrilineal societies like the *Khasi*, women are guardians of their property but men are its custodians. As such women have more control over land than in patrilineal societies but they are not equal to men. They are not allowed to alienate land. That decision is with men.

Changes in Land Use and Gender Implications

Thus all the tribes are patriarchal and except for the three tribes of Meghalaya they are also patrilineal. However, most of them provided for the maintenance of women. That aspect tends to get weak with their interface with modernity if it imposes individual *pattas* on them. The case studies indicate that the land use system has undergone both qualitative and quantitative change. It is attributed to the introduction of land laws in the colonial period and modifications to them after 1947.

To these external legal influences and others like economic inducements should be added internal dynamism of the community. In the past land was considered the most important "status" symbol that gave the man "influence" in his society. The influence and social position of the Angami and Tangkul man depended on the quantum of his landed property. It is changing with the monetary economy and the emergence of elite households among them. With it has begun the process of turning land into a commodity that can be bought and sold. Today, rich households own the best portion of the terrace fields and homesteads.

The second factor is the individualisation of the CPRs though encroachment or by making permanent improvements on it. Among the *Karbi* land is today concentrated in a few individual hands or families and disparity has developed within the community. Thus, with individual ownership comes monopolisation by a few persons. Such ownership is invariably in the hands of men and it takes away from the woman the little power she had over it in their community ownership system. As the Angami and Tangkhul case studies show, the male elite interpret their customary law in this direction and confer legitimacy on this changeover. This phenomenon is more apparent in the plains but it exists also in the Hills. Some own only the homestead and make their living either by cultivating the land of others as share croppers or work as labour paid in cash or kind.

One of its results is shortening of the *jhum* cycle. That has implications for women because *jhum* is considered female agriculture. The *Angami* woman takes full responsibility for *jhum* land and its produce and sells the surplus in the local markets. Thus, she controls both its production and marketing and manages the money she gets by selling the produce and decides how to use it. Generally, it is used children's education, domestic purposes and medical treatment. Men have less say in *jhum* related work than in terrace cultivation which is their main form of agriculture.

However, among the Angami *jhum* is secondary cultivation but it is the main sustenance of the Dimasa and Garo. As such Angami women continue to have control over their *jhum* land and today they grow commercial crops on it to pay for new needs like their children's education. Significant is the fact that in the urban areas many women own houses and moveable property such as vehicles. It was unheard of in their tradition. Such economic independence is the direct result of education and salaried jobs and is indicative of a change in their social position. But their tradition remains unchanged. Men interpret the customary law to say that women cannot own land. For example, recently her uncles deprived a Lotha woman even of the acquired house of her parents who only had a daughter. The court could not interfere in this case because they come under their customary law and it was seen as its interpretation. Thus on one side women get economic independence and social empowerment through education and on the other their tradition refuses to recognise this change.

The situation is different among the Dimasa and Garo. Many in these tribes are turning to commercial crops like tea and rubber. Others grow orchards and cash crops like oranges and guavas. Some Dimasa villages have succeeded in growing oranges without changing their land ownership pattern but that is not the case with coffee and rubber. The Coffee Board and Rubber Board give loans

and subsidies only to individuals and heads of families understood as men. That has resulted in change in the power structure in the West Garo Hills. On one side it has resulted in class formation with the elite trying to monopolise land for growing rubber. On the other the little power that women have in this matrilineal society has been reduced.

Thus, change imposed from outside is accepted by their elite. While the law allows community ownership of land and forests in the Sixth Schedule areas, the administrative systems continue to be individual-oriented. While their tribe is matrilineal, the financial institutions are male-oriented and recognise only men as heads of families. As a result, about 30 per cent of the families in this district have become landless. Today some men in their tribe are demanding male inheritance. This demand is not common but the fact of women's power being reduced is a fact.

Thus a contradiction is arising slowly between their customary practices and modern inputs. In their traditional societies, women are not in the decision-making bodies but some are beginning to feel the need to involve them in the decision-making process. They demand greater participation in the community activities. Education has resulted in many women becoming aware of their rights. Some of their organisations are taking the initiative in promoting social development and economic equity through workshops, seminars and other social activities. *Tangkhul Naga* women are trying their best to revitalise their customary laws and traditions. Naga women today are very different from what their sisters were in the past. They have formed many women's organisations at the village and community levels. The *Tangkhul Naga* women have an organisation called *Shanao Long* as the apex body of their tribe. There are many such examples among other tribes too.

That creates a contradiction in their societies. Despite awareness created by education, no community considers women equal to men or gives them full rights over land. The matrilineal tribes grant them inheritance rights but major decisions concerning it are in the hands of men. Thus the land control system has a positive correlation with the patriarchal mindset. In spite of women improving their educational and social status it is difficult to modify the hard foundation of the patriarchal set up that consolidates its position through the male controlled customary law. Today men use the same modern inputs to interpret their customary law in their own favour.

3. Land and Modernisation

While the indigenous societies of the Northeast are modernising themselves, another form of modernisation is being imposed on them in the form of development and that goes against their communities in general and women among them in particular. We have seen above that education has helped women to become aware of their rights and they have formed organisations to help all their sisters to become aware of gender equality. Modernisation also has elements that are being imposed on their communities without their being prepared for it, the male and individual orientation of the administration being one of them. Another major source of changes in land ownership is development projects that are presented as modernisation of their economy.

Development and Land

A major area of such modernisation is development projects. According to official documents, all the development projects in Assam 1947-2000 have used 391,772.9 acres and have affected only 308,634 persons. What the official records speak of is only private land acquired through Gazette notifications. The reality is 14,01,184.8 acres that have affected 19,09,368 persons. The type of some 84% of the land could be identified. 56% is CPRs and 28% private. Of those who were deprived of their land, the caste-tribe of 54% could be identified. 40% of them are tribals who are only 12.9% of the State population. It is not surprising because over 10 lakh acres used are CPRs, most of it tribal livelihood. There are indications that most of those whose caste-tribe could not be identified are tribals. They may thus be over 50% of the affected.

Planned Projects

This situation needs to be studied because of the future plans. A list of 256 dams is being circulated, 100 of them in Sikkim and the rest in the Seven Sisters of the Northeast. The region is endowed with rich bio-diversity and such ecological features favour proven hydro-power potential. On March 14, 2002 the then Union Minister for Power announced in the Rajya Sabha that the region has an estimated 58,971 KW or 38% of the country's hydro-power potential (*The Assam Tribune*, March 15, 2002). On 24th March 2003 the then Prime Minister Mr A. B. Vajpayee launched the 50,000 MW hydro-power initiative for the Northeast in order to turn it into the powerhouse for India and Southeast Asia (*The Telegraph* 25th May 2003).

Arunachal Pradesh alone has power potential of over 40,000 MW. Former Chief Minster Mukut Mithi signed a Memorandum of understanding (MoU) with the National Hydro-Power Corporation (NHPC) to construct a series of dams. Out of the 48 dams being planned immediately five are in AP on the Siang Basin of Arunachal Pradesh to generate 6,000 MW of hydropower from the estimated potential (*Source*: Department of hydropower, Government of Arunachal Pradesh). The projects are Lower Siang Hydro Electricity Project (HEP) (1,600MW) Hirong HEP (500), Reliance Energy Tato HEP (700) and Siyom HEP (1,000mw), DS constructions (Kaying 1,000 MW) and Subansiri Lower Project (2,000 MW) are expected to be built in the Basin in the near future.

These impressive statistics are only one side of the coin. Land alienation and displacement are the other. Apart from those to be affected by the dams, around 5,000 persons from 14 villages of Dolok Banggo area in West Siang are facing displacement following the Supreme Court directive to convert the existing reserve forests into a wildlife sanctuary to compensate for what will be submerged by the Subansiri Lower (SLP) dam. In its project report on SLP, NHPC writes that it 'proposes to develop a 2000 megawatt hydro-power project at *Gerukamukh* area on River Subansiri. The proposed dam site is about 2.3 km upstream of village Gerukamukh. The area under submergence is at Full Reservoir Level (FRL) 3,436 ha. Most of the land it will submerge is forests but some cultivable land of Siberite and Gengi on the left bank of the river is coming under submergence. It claims that no houses will be submerged but the Environment Impact Assessment speaks of 38 families to be displaced and does not say how many will be deprived of their livelihood without physical relocation. Much of the land to be used by them is common that belongs to the tribal communities according to their customary law but the State does not recognise it as theirs.

The Arunachal Pradesh Forest Department has been asked to begin surveys to demarcate the Protected Area boundary. The SC has also imposed a ban on projects upstream, the creation of a wildlife sanctuary and compensation obligations. The order to create a sanctuary upstream of the project and ban on any other project on the Subansiri was based on the recommendations of the five-member Central Empowered Committee (CEC) that advises the SC on forest related issues. But equally devastating has been another order passed by the Ministry of Environment and Forests on April 23, 2004. In the wake of an SC directive under CEC advice it created the Compensatory Afforestation Fund Management and Planning Authority (CAMPA).

The *Tipaimukh* Multi-Purpose Project in the Tamenglong district of Manipur is an ambitious major power project to produce 1500 MW. It will submerge 16 tribal villages fully and severely affect another 51. The communities, the *Zeliangrong Nagas* and *Hmar* will be its direct victims. As Ms Aram Pamei wrote (*Economic and Political Weekly*, Vol. 36, No. 13, March 31-April 6, 2001) "The Zeliangrong people who live in these areas, like any other tribal people, do not lead an individualised commodity-governed life but live in a well-knit web of community life. Their ancestral emotional bonds to their land, the mother earth, constitute their cultural and psychological frame of mind that they cannot be compromised or negotiated. The submergence of the Ahu (Barak) waterfalls, the biggest and the most beautiful natural gift in Manipur, will destroy an important aspect of their heritage--the innumerable myths and legends, which are an inalienable part of their bank of memories, inherited through centuries. The high watermark of the dam will also destroy five most important lakes located just above the Ahu waterfalls where the magical sword of Jadonang, the national hero of the

Nagas, is believed to be hidden. All these priceless and inalienable parts of their cultural heritage cannot be left to the mindless destruction by the dam project authorities."

According to its project report the Pagladia dam in the Nalbari district of Assam will submerge 26 villages, 17 of them fully and 9 partially and will use 18,549.7 acres. The Brahmaputra Board has prepared a rehabilitation package of Rs 47.89 crores for 18,473 persons from 3,271 families. It claims that 7,997.86 acres needed for it are included in the 18,549.7 acres. The local people claim that it will submerge 38 villages fully and others partially and will use 34,000 acres and that, the number its DPs/PAPs is 105,000. The difference is because of common land. Most of the additional 80,000 persons whom it will affect are CPR dependent Boro, Rabha and other tribals. The project authorities count only those living on private land. Thus, the issue of CPRs attains importance in the ethnic conflicts as well as in development-induced displacement.

This issue has caused tension between the State and the tribal communities in areas where they are aware of their rights under the Schedule and where land is their sustenance, for example in Meghalaya where the Government did the initial survey for uranium mining. Land in Meghalaya comes under the Sixth Schedule. The indigenous communities resisted their displacement for some years before yielding to the State under pressure (*The North East Reporter,* December 3, 2003).

If the Schedule is not recognised, people may not even be counted among the DPs. That is what we have seen about the 19 lakh people affected by development projects in Assam 1947-2000 and the proposed Pagladia dam. In Tripura it has led to conflicts for three decades. By the late 1960s Bangladesh refugees had encroached on 60 per cent of indigenous tribal land. That is when the Gumti dam was announced in the early 1970s. They protested against it but were forced out of their land. It submerged 46.34 sq. km, most of it level land that is only 28% of the State's total. By official count it displaced 2,558 families (13,500 persons) that had *pattas* but 5,500 to 6,500 CPR dependent families (30,000 to 35,000 persons) were not even counted. The dam has become non-viable. So some suggest its decommissioning and returning the land to the people but the State is not ready to do it. The origin of the Tripura tribal insurgency can be traced to this event that was the last straw.

The people can be ignored even when the customary law applies as in the Bairabi Hydro-electric dam to be built at a cost of Rs 600 crores in the Kolasib district of Mizoram, to generate 80 MW at 30% load factor. It requires 7,721 acres of forests and 3,047 ha of private land from 6 villages with a population of 6,500. This hill State has very little flat cultivable land, so its submergence is a cause of concern. Among the six villages is Hortoki with 400 families. Its economy is based on *atkora,* a citrus fruit sold in the plains for Rs. 2-3 each. It gives the village an annual income of Rs. 40 lakhs so its people do not depend on the State for their livelihood. Its Council had opposed the dam but the State formed a body called NGO services, to convince the communities of its benefits. Hortoki village president stated that given the 'right kind' of rehabilitation, including cultivation of *atkora*, they would sacrifice their lands. When they accepted the dam under pressure even the quantum of compensation was reduced!

Conclusion

We have seen a double contradiction in the chapter. The first is between the tribal customary law and the formal law. The second is between modernisation and their tradition. The indigenous communities have a right to change and modernize themselves. However, many elements of modernisation are imposed on them without their being ready to face them. That causes the contradiction. The change of law prepares the foundation of land alienation. The legal system makes is possible for immigrants to encroach on their land. The individual and male based administrative system reduces women's role and development projects begin the process of their impoverishment and marginalisation.

That is where a solution has to be found by recognising the indigenous right to self-determination. Only monetary compensation and rehabilitation are no solution to the loss of land and forests in the bio-diversity-rich region where most land is community owned. The precedent of

creating protected areas as compensation for loss of forests, if followed, will only lead to massive land alienation. The only solution is dialogue with the people from the stage of planning the project.

Chapter 5: Conclusion and Recommendations

In the last few pages we have looked at the processes that result in tribal land alienation in the Northeast. By alienation we do not mean only physical transfer but all change in the power of control over it. This perspective of land alienation took us both to the internal and external forces that cause it.

We began by looking at the legal situation and realised that one cannot hold only the external forces of legal changes responsible for it. These changes together with modernisation in the form of development projects are basic to the process of land alienation. Together with it one has also to identify education and other forces that help women to become aware of their rights but can also strengthen individualism and patriarchy. A form it has taken is the birth of the elite that monopolise land within the community and interpret their customary laws to suit the needs of their own class. For example most tribes do not have a *patta* system or revenue villages or land tax. The Nagas do not allow land alienation to outsiders but one cannot say that it does not happen in Nagaland. More important I the fact that changes in the land use system are happening within the community.

That brought to the fore the contradiction between people becoming aware of their rights but also interpreting their customary law to suit class formation and male domination. That can be destructive of their communities in the long run. That is where we felt the need to search for solutions.

Remarks and Recommendations

As of now, the process of land alienation has two dimensions, internal within the community and external forces that induce it through the development projects and the ambiguous land laws. Because of this double dimension, even when the State laws do not apply the internal dimension results in alienation that causes economic and wealth disparity among the villagers. People begin to sell or mortgage all or part of their land within the community to meet new needs like education.

Land alienation can take the form also of fragmentation of landed properties. At times it has a foundation in their tradition. For example, when the eldest son of a Tankhul family marries the parents are obliged to leave their house with the remainder of their family. The same process is repeated on the marriage of every son several times if the couple has many sons. The ageing parents are taken care of by the eldest son or daughter. When the couple has a many sons the family is reduced to poverty. Not only the parents but also some of the sons do not get enough property especially paddy fields to sustain themselves because of the fragmentation of household properties. However, in the later stage new properties are acquired adding to the few household ancestral properties

Apart from the State laws, the influence of these customs and exogenous forces like commercialisation and market forces gradually led to socio-economic transition within their societies and bring about changes in the land use system. It has direct implications for the community land and forests. Also the population adds to the pressure on land and leads to internal transformation.

An external factor is encroachment on tribal land by the immigrants. It has led to the process of land alienation as one see in the tribal belts of Assam and Tripura. The encroachment is often encouraged by the ambiguity of existing Acts and by the State's political manipulation.

Hence, one needs to understand the process of alienation and find remedies to it. Among them is alienation by the state in the name of national development. Besides, the land alienation process goes hand in hand with a policy of "de-tribalisation." The direct population transplantation in the form of political refugees has caused serious social conflict particularly in peaceful States like Mizoram and Arunachal Pradesh. Illegal immigration and infiltration in the region creates a big problem. That leads directly to encroachment of tribal land and to the alienation process.

Suggestions

This situation raises a question about the role of the customary law in the past and what role it can play in the context of the State's land laws. It is important to articulate the importance of the customary laws in strengthening the traditional system and indigenous traditions and contextualise the modernisation process without losing its basic values. The focus needs to "Item by Item."

That also requires a process of networking to strengthen and establish a support system to the various indigenous communities and to their grassroots level (GRL) activities within the village as well as community. GRL activities begin with the local village council, youth and women's organisations. The activities include awareness dissemination and conduct of workshops and seminars on the issue of land alienation. In these seminars focus should be both on the external forces of alienation to outsiders and internal forces of change in power relations such as the weakening of women's role in the decision-making processes of the family and community.

Side by side it is important to build greater awareness at the community level (CL) around the programmes and policies of the State and the implications of its land laws. Also the role of the customary laws and traditional institutions needs to contextualised in the effort to modernise tradition.

The third level is State level inter-community interaction. At this stage, institutional regional co-ordination and working groups are needed to build up implementation mechanisms. Indigenous peoples should be made participants in discourses and issues related to land.

Among the tools suggested are creation of visual media like documentaries on the customary laws, their role in preventing or intensifying land alienation, an analysis of the Sixth Schedule and of the Forest Rights Bill.

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Map of North-East India
China
Arunachal Pradesh
Bhutan
Assam
Nagaland
Meghalaya
Manipur
Burma
Bangladesh
Tripura
Mizoram
N
W
E
S